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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/635,292

08/06/2003

Tony Brice

023895/265041

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7590

03/12/2008

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EXAMINER

BOVEJA, NAMRATA

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

03/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/635,292

**Applicant(s)**

BRICE ET AL.

**Examiner**

PINKY BOVEJA

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to communication filed on 11/26/2007.
2. Claims 1-38 are presented for examination.
3. Amendments to the claims have been entered and considered.

**Claim Rejections - 35 USC § 112**

4. *The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:*

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.*

*There are two separate requirements set forth in this paragraph:*

- (A) the claims must set forth the subject matter that applicants regard as their invention; and*
- (B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.*

*Claims 1 and 12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.*

*Claims 1 and 12 are rejected under 35 U.S.C. 112, second paragraph, since the claim recites the marketing criteria that at least partially dictates a predetermined number of purchase offers provided to the user or a manner in which the purchase offers are provided to the user, and this renders the claim indefinite, because it is unclear what the Applicant means by partially dictates. Does the marketing criteria dictate the number of offers presented is a Yes/No question. Also, it is unclear what the Applicant means by the manner in which the offers are provided. So, it is unclear what*

*the Applicant is trying to claim here. It is interpreted to mean that the marketing criteria dictates the number of purchase offers that are provide to the users. Appropriate correction is required.*

5. *Claims 2, 3, 13, and 14 are rejected under 35 U.S.C. 112, second paragraph, since the claim recites limiting and presenting the purchase offers from a respective supplier based upon the marketing criteria of the supplier and the seller, and there is insufficient antecedent basis for this limitation in the claim, since it was not previously recited that purchase offers from a respective supplier were being limited. Instead, claim 1 recited purchase options were being provided by the suppliers. It is interpreted to mean that the purchase options from a supplier or the purchase offers from a seller are limited by the marketing criteria and then presented to users. Clarification is required.*

5. *Claims 4-7 are rejected under 35 U.S.C. 112, second paragraph, since the claims recites adjusting the provision of purchase offers, and it is unclear what the Applicant means by adjusting the provision of purchase offers, since there is insufficient antecedent basis for this limitation, as a provision was not previously recited by the Applicant. It is interpreted to mean that the dollar amount, the number of purchase offers that are presented, or the order of purchase offers that are presented to the users are limited based on the monitoring. Furthermore, in claim 6, adjusting a location of a purchase offer is interpreted to mean the order in which offers are presented, since it is unclear what adjusting a location means. It could mean the location the offers are presented on a computer screen or the destination location. Clarification is required.*

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6. *Claims 12 and 30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.*

*Claims 13 and 20 are rejected under 35 U.S.C. 112, second paragraph, since the claim recites a system comprising of a processing element which comprises of code, and this renders the claim indefinite, because a system typically comprises of hardware components and not a computer program. So, it is unclear what the Applicant is trying to claim here. It is interpreted as a system comprising a computer usable medium. Appropriate correction is required.*

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless -(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

7. *Claims 1-7, 11-17, 19-25, 27, 28, 30-35, 37, and 38 are rejected under 102(e) as being anticipated by Harford et al. (Patent Number 6,826,543 hereinafter Harford).*

*In reference to claims 1 and 20, Harford teaches a method for providing purchase offers, comprising: receiving, from a user, a purchase request including purchase profile information (abstract, col. 1 lines 52-62, col. 2 lines 26-31, col. 7 lines 55 to col. 8 lines 55, and col. 8 lines 62 to col. 9 lines 30); determining a set of*

purchase options based on the purchase profile information (*col. 1 lines 14-26 and col. 10 lines 13-38*); determining a point value for each purchase option based on characteristics associated with the respective purchase option (*col. 12 lines 38 to col. 13 lines 62 and Figures 16-18*); and *limiting and providing one or more purchase offers associated with respective purchase options based upon the point values for the purchase options and further based upon a marketing criteria of a supplier that provides the purchase option or a seller that provides the one or more purchase offers, wherein the marketing criteria comprises at least one merchandizing rule that at least partially dictates a predetermined number of purchase offers provided to the user or a manner in which the purchase offers are provided to the user* (*col. 13 lines 23 to col. 14 lines 56*).

8. *In reference to claims 2, 3, 13, 14, 21, 22, 31, and 32, these dependent claims are further limiting the alternative limitation of a marketing criteria of a supplier and the marketing criteria of a seller, and since this alternative limitation of a marketing criteria of a supplier was not selected from the independent claims 1, 12, 20, and 30, the prior art still teaches the alternative limitation which was selected in claim regarding the marketing criteria of a seller, and therefore claims 2, 3, 13, 14, 21, 22, 31, and 32 do not need to be addressed as they pertain to the unselected alternative limitations of the independent claims.*

9. *In reference to claims 4, 17, 25, and 35, Harford teaches the method and system further comprising: monitoring purchase transactions associated with a type of purchase option offered by a supplier (col. 14 lines 26-56); and adjusting the provision of purchase offers for the type of purchase option offered by the supplier based on the*

monitoring (*col. 10 lines 54-60 and col. 14 lines 26-56*).

10. In reference to claim 5, *Harford* teaches the method, wherein adjusting the provision of purchase offers includes: adjusting a number of times the type of purchase option offered by the supplier is included in a document that presents the purchase offers based on the monitoring (*col. 14 lines 26-56*).

11. In reference to claims 6, 15, 23, and 33 *Harford* teaches the method *and system*, wherein adjusting the provision of purchase offers includes: adjusting a location of a purchase offer associated with the type of purchase option offered by a supplier in a document that presents the purchase offers based on the monitoring (*col. 14 lines 26-56*).

12. In reference to claim 7, 16, 24, and 34, *Harford* teaches the method *and system*, wherein adjusting the provision of purchase offers includes: adjusting a format of a purchase offer associated with the type of purchase option offered by a supplier in a document that presents the purchase offers based on the monitoring (*col. 14 lines 26-56*).

13. In reference to claims 11, 19, 27, and 37, *Harford* teaches the method *and system* further comprising constructing a plurality of data structures with each data structure containing no more than a predefined number of purchase options for a respective supplier, and wherein providing one or more purchase offers comprises providing one or more purchase offers from among the purchase options contained within the plurality of data structures (*col. 11 lines 36 to col. 12 lines 15*).

14. In reference to claims 12 and 30, *Harford* teaches an offer generating module for

providing purchase offers comprising: a processing element adapted to receive, from a user, a purchase request including purchase profile information, said processing element also adapted to determine a set of purchase options based on the purchase profile information, said processing element further adapted to determine a point value for each purchase option based on characteristics associated with the respective purchase option, and said processing element additionally adapted to provide one or more purchase offers associated with respective purchase options based upon the point values for the purchase options and further based upon a marketing criterion of at least one of a supplier that provides the purchase option and a seller that *limits and* provides the one or more purchase offers (*abstract, col. 1 lines 14-26 and 52-62, col. 2 lines 26-31, col. 7 lines 55 to col. 8 lines 55, col. 8 lines 62 to col. 9 lines 30, col. 10 lines 13-38, col. 12 lines 38 to col. 14 lines 56, and Figures 16-18*).

15. In reference to claims 21, and 31, *Harford* teaches the method wherein providing one or more purchase offers comprises limiting the purchase offers from a respective supplier based upon the marketing criteria of the supplier *or* the seller (*col. 13 lines 23 to col. 14 lines 56*).

16. In reference to claims 22, and 32, *Harford* teaches the method wherein providing one or more purchase offers comprises presenting the purchase offers to the user in accordance with the marketing criteria of the supplier *or* the seller (*col. 13 lines 23 to col. 14 lines 56*).

17. In reference to claims 28 *and* 38, *Harford* teaches the method *and* system wherein identifying a set of purchase options comprises selecting at least one database



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of purchase options based upon at least one of the user and the purchase profile information, and subsequently searching the selected database to identify the set of purchase options (*col. 9 lines 15-30 and col. 11 lines 1 to col. 12 lines 16*).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 8-10, 18, 26, 29, and 36 are rejected under U.S.C. 103(a) as being unpatentable over *Harford* in view of the article titled "Frustrated Fliers Say Fair Fare A Gamble," by Susan Glaser, *The Plain Dealer*, June 5, 2000, pg. 1.A. (hereinafter Glaser).

In reference to claim 8, *Harford* teaches the method of providing purchase offers (*col. 13 lines 23 to col. 14 lines 56*) and determining a point value for each purchase option (*col. 12 lines 38 to col. 13 lines 62 and Figures 16-18*). *Harford* does not teach determining an initial value for each purchase option, and assessing a penalty for at least some purchase options based upon at least one of variations between the purchase profile information and the respective purchase option and availability of the respective purchase option. Glaser teaches determining an initial point value for each purchase option, and assessing a penalty for at least some purchase options based upon at least one of variations between the purchase profile information and the

respective purchase option and availability of the respective purchase option (see at least page 1 paragraph 4, page 2 paragraph 25, and page 3 paragraphs 26 and 27). It would have been obvious to employ in *Harford's* method of providing purchasing offers the penalty assessment as taught by Glaser, since this would lead to providing more targeted purchasing options to the customers and would allow the customers to choose the appropriate product or service based on multiple types of criteria such as scheduling, pricing, inventory, and connections simultaneously.

19. In reference to claim 9, *Harford* teaches determining a point value for each purchase option (*col. 12 lines 38 to col. 13 lines 62 and Figures 16-18*). *Harford* teaches the method wherein the purchase option is for purchasable items *such as hotel rooms (col. 10 lines 13-53 and Figures 17 and 18)*. *Harford* does *not* specifically teach the method wherein the purchase option is a flight option, and wherein determining a value for each purchase option includes: determining a value for the flight option, assessing a penalty to the point value based on at least one of: i) a departure displacement time for the flight option compared to a requested departure time included in the purchase request, ii) a connection service type associated with the flight option, and iii) an inventory class status associated with the flight option. Glaser teaches the method wherein the purchase option is a flight option, and wherein determining a value for each purchase option includes: determining a value for the flight option, assessing a penalty to the point value based on at least one of: i) a departure displacement time for the flight option compared to a requested departure time included in the purchase request (page 2 paragraph 25 and page 3 paragraph 26), ii) a connection service type

associated with the flight option (page 3 paragraph 27), and iii) an inventory class status associated with the flight option. It would have been obvious to employ in *Harford's* method of providing purchasing offers the options relating to purchasing flights as taught by Glaser, since flight tickets are a type of product that a user purchases online similar to *hotel room purchases* as taught by *Harford*.

20. In reference to claim 10, *Harford* teaches the method wherein the purchase request comprises profile information (*col. 9 lines 14-30 and col. 11 lines 1-10*). *Harford* also teaches the method wherein the purchase option is for purchasable items *such as hotel rooms (col. 10 lines 13-53 and Figures 17 and 18)*. *Harford* does not teach the method wherein the purchase request comprises a travel request including travel profile information, further comprising: identifying a plurality of candidate schedules based upon the travel request; determining availability of the plurality of candidate schedules; determining a price of at least those candidate schedules that are available, and wherein the value for each purchase option is determined for each of the candidate schedules that are available. Glaser teaches the method wherein the purchase request comprises a travel request including travel profile information, further comprising: identifying a plurality of candidate schedules based upon the travel request (page 2 paragraph 15); determining availability of the plurality of candidate schedules (page 2 paragraph 14); determining a price of at least those candidate schedules that are available (page 2 paragraphs 15 and 25 and page 3 paragraph 27), and wherein the value for each purchase option is determined for each of the candidate schedules that are available (page 2 paragraphs 15 and 25 and page 3 paragraph 27). It would have

been obvious to employ in *Harford's* method of providing purchasing offers the options relating to purchasing flights as taught by Glaser, since flight tickets are a type of product that a user purchases online similar to *hotel room reservations* as taught by *Harford*, and a user would want to compare ticket prices before carrying out his purchase just like he would want to compare *hotel rates* before locking into a given *hotel*.

21. In reference to claims 18, 26, and 36, *Harford* teaches determining a point value for each purchase option (*col. 12 lines 38 to col. 13 lines 62 and Figures 16-18*). *Harford* does not teach the determining a value for each purchase option by determining an initial value for each purchase option, and by assessing a penalty for at least some purchase options based upon at least one of variations between the purchase profile information and the respective purchase option and availability of the respective purchase option. Glaser teaches the determining a value for each purchase option by determining an initial value for each purchase option, and by assessing a penalty for at least some purchase options based upon at least one of variations between the purchase profile information and the respective purchase option and availability of the respective purchase option (page 2 paragraphs 15 and 22). It would have been obvious to employ in *Harford's* method of providing purchasing offers the options relating to purchasing flights as taught by Glaser, since flight tickets are a type of product that a user purchases online similar to *hotel room purchases* as taught by *Harford*, and a user would want to compare ticket prices before carrying out his purchase just like he would want to compare *hotel room prices* before locking into a given *hotel*.

22. In reference to claim 29, *Harford* teaches the method wherein the purchase request comprises profile information (*col. 9 lines 14-30 and col. 11 lines 1-10*). *Harford* teaches the method wherein the purchase option is for purchasable items *such as hotel rooms (col. 10 lines 13-53 and Figures 17 and 18) and scoring hotel room options (col. 12 lines 23 to col. 13 lines 63)*. *Harford* does not teach the method wherein the purchase request comprises a travel request including travel profile information, further comprising: identifying a plurality of candidate schedules based upon the travel request; determining availability of the plurality of candidate schedules; determining a price of at least those candidate schedules that are available, and wherein the value for each purchase option is determined for each of the candidate schedules that are available. Glaser teaches the method wherein the purchase request comprises a travel request including travel profile information, further comprising: identifying a plurality of candidate schedules based upon the travel request (page 2 paragraph 15); determining availability of the plurality of candidate schedules (page 2 paragraph 14); determining a price of at least those candidate schedules that are available (page 2 paragraphs 15 and 25 and page 3 paragraph 27), and wherein the value for each purchase option is determined for each of the candidate schedules that are available (page 2 paragraphs 15 and 25 and page 3 paragraph 27). It would have been obvious to employ in *Harford's* method of providing purchasing offers the options relating to purchasing flights as taught by Glaser, since flight tickets are a type of product that a user purchases online similar to *hotel room purchases* as taught by *Harford*, and a user would want to compare ticket

prices before carrying out his purchase just like he would want to compare *hotel room* offers before locking into a given *hotel room*.

***Response to Arguments***

23. Applicant's remarks/arguments filed on 11/26/2007 have been fully considered but are moot in view of the new ground(s) of rejection.
24. Amendments to the claims 1, 12-20, and 30-38 have been entered and considered.
25. The previously made rejection under 35 USC § 101 has been removed in view of the amendment by the Applicant.
26. Applicant's amendments have lead to the introduction of various 35 USC § 112 second paragraph rejections as recited in the office action above.
27. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

**Conclusion**

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Point of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central Fax Number** for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

/N. B./

Examiner, Art Unit 3622

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/Yehdega Retta/

Primary Examiner, Art Unit 3622